



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**W.P(MD)Nos.3178, 3181, 3182, 3183, 3184, 3185, 3186, 3187, 3188,
3189, 3191 and 3193 of 2020**

and

**W.M.P(MD) .Nos.2702, 2704, 2705, 2706, 2708, 2707, 2709, 2710, 2711,
2712, 2713 and 2714 of 2020**

W.P(MD) .No.3178 of 2020

S.Vaikundarajan

... Petitioner in all WPs

Vs.

The State of Tamil Nadu,
rep., by its Principal Secretary to Government,
Industries (MMD.2) Department,
Secretariat, Fort St.George,
Chennai 600 009.

.. Respondent in all WPs

COMMON PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the respondent in letter Nos.7261/MMD-2/2019-2, 7320/MMD-2/2019-2, 7323/MMD-2/2019-2, 7321/MMD-2/2019-2, 7331/MMD-2/2019-2, 7325/MMD-2/2019-2, 7326/MMD-2/2019-2, 7322/MMD-2/2019-2, 7336/MMD-2/2019-2, 7329/MMD-2/2019-2, 7337/MMD-2/2019-2, 7340/MMD-2/2019-2 dated 31.01.2020 and quash the same and provide the relevant documents as sought for by the petitioner in reply dated 01.08.2019.

IN ALL WP's

For Petitioner : Mr.Kingsly Solomon J. For Mr.Lakshmi Narasimman

For Respondent : Mrs.J.Padmavathidevi

Special Government Pleader

COMMON ORDER

These Writ petitions have been filed in the nature of Certiorarified Mandamus seeking a direction to call for the records of the respondent namely the Principal Secretary to Government Industries (MMD.2) Department of the State of Tamil Nadu in letter No.7261/MMD-2/2019-2, dated 31.01.2020 and set aside the same.

2.In all these writ petitions, the impugned order is dated 31.01.2010. The only difference is that orders were passed with respect to separate mining leases, which, according to the learned counsel for the petitioner, are still subsisting. Originally, the



petitioner was issued with a show cause notice dated 28.06.2019. This show cause notice was issued with respect to the mining leases under the provisions of the Atomic Minerals Concession Rules, 2016, and Atomic Mineral Construction (Second Amendment) Rules 2019, whereby, the respondent namely the Principal Secretary to the Government, after stating out various reasons, called upon the petitioner herein to appear in person on a particular date, namely 22.07.2019 at 05.30 pm., failing which, it was stated that it will be presumed that the petitioner has no remarks to offer.

3.The show cause notice, issued as stated above, under Section 4A(1) of the Mines and Minerals (Development and Regulation) Act 1957, had stated that the Central Government after consultation with the State Government had decided by order dated 01.03.2019 to regulate quarrying mines and minerals and to conserve minerals resources and therefore, to prematurely terminate all existing mineral concessions of Beach Sand Minerals held by private persons/companies in the country and had therefore, directed the State Government to take necessary action in accordance with Section 4A(1) and 4A(3) of Mines and Minerals (Development and Regulation) Act 1957. It was also mentioned in the notice, which is actually a show cause notice, that a *suo motu* Public Interest Litigation (PIL) in W.P.No.1592 of 2015 had been filed by the Registrar General, Madras High Court in connection with illegal mining of Beach Sand Minerals and the said PIL is still pending before a Division Bench of the Madras High Court. It had also been observed that the said Division Bench by order dated 27.03.2017 had ordered that the Central Government should take effective steps as a policy decision and regulate the process of mining and restrict the license in respect of the mineral Monazite. It was also stated that the order of the Division Bench related to and also covered Beach Sand Minerals and particularly to unauthorised/illegal extraction of minerals, transportation and other associated alleged illegal and unlawful activities.

4.In the show cause notice, it has been stated that the writ petitioner herein has been indulging in such alleged unauthorised/illegal extraction of minerals, transportation and other associated alleged illegal and unlawful activities. Under these circumstances, by the show cause notice, the petitioner was directed to answer as to why the mining leases granted in favour of the petitioner Tvl.V.V.Mineral for mining garnet sand over an extent of 1.15.5 hectares of patta lands in S.F.No.1041/3 of Koodangulam Village, Rathapuram Taluk, Tirunelveli District, should not be prematurely terminated under Section 4A (1) of the Mines and Minerals (Development and Regulation) Act 1957. Similar notices were issued to all subsisting mining leases in favour of the petitioner. The only difference, as stated by the learned Special Government Pleader, is that the survey numbers alone were different. The petitioner was called upon to give an explanation within 15



days. A further opportunity of personal hearing was granted. The petitioner was directed to appear in person on 22.07.2019. Today it is 17.03.2020. The petitioner has neither replied to the show cause notice nor had he appeared in person before the respondent.

5.The learned counsel for the petitioner states that he has given a representation seeking copies of documents as a precondition for appearance. He had sent a representation on 22.07.2019, which has been issued by the Manager, namely K.Nithya Kalyani and had sought for as many as four documents. It had been stated that all the above are missing along with Government of India, Director letter dated 01.03.2018 or Joint Secretary order dated 01.03.2019 and since the said documents were not furnished by the State Government along with the show cause notice and since the notices were issued based on directions issued by the Ministry of Mines, copies of the documents were sought as being essential to reply to the show cause notices.

6.In reply to such request, the present impugned orders were passed. In the impugned orders dated 31.01.2020, the Principal Secretary to Government has stated that the notices were issued to the petitioner seeking reply and also offering personal hearing and it was further noted that the petitioner had not appeared and had also not replied to the show cause notice, but had sought certain documents to be provided. It was thereafter, stated that the request for provision of documents has been examined by the Government and it was stated that the requisite documents were confidential in nature and disclosure of the documents were prohibited under Section 8(1)(a) of the Right To Information Act 2005. A further opportunity for appearance was given and the date was fixed on 21.02.2020 at 04.30 pm.

7.The learned counsel for the petitioner claim that the documents sought were neither confidential nor prohibited documents.

8.However, in the representation given on 22.07.2019 seeking copies of the said documents, the reasons as to why those documents were required by the petitioner has not been stated. As stated, the petitioner has not answered the show cause notice. The Manager by name K.Nithya Kalyani had answered the show cause notice and had sought for copies of the documents. It has not been stated in what manner the petitioner is prejudiced by non furnishing of such documents. The relevancy of such documents have not been stated.

9.It is also not known why provision of these documents can be stated to be a prerequisite or precondition even for personal appearance. The petitioner can very well appear in person before the respondent and explain to him the relevancy of the documents. He neither appeared before the respondent nor had he replied to the show cause notice, but states that unless the copies of the documents are given, he would neither appear nor give reply. The



conduct of the petitioner has to be condemned.

10.The petitioner, if he is not involved in any illegal unlawful activities as stated in the show cause notice, should have, with due respect to the petitioner, or to whatever organisation he is running, appeared before the respondent. The rule of law is applicable to every individual. The rule of law states that if notice is issued for appearance, there is a duty cast on the petitioner to appear before the respondent. Therefore, I have no hesitation in upholding the impugned orders in the writ petitions in Letter Nos.7261/MMD.2/2019-2, 7320/MMD.2/2019-2, 7323/MMD.2/2019-2, 7321/MMD.2/2019-2, 7331/MMD.2/2019-2, 7325/MMD.2/2019-2, 7326/MMD.2/2019-2, 7322/MMD.2/2019-2, 7336/MMD.2/2019-2, 7329/MMD-2/2019-2, 7337/MMD.2/2019-3 and 7340/MMD.2/2019-3 all dated 31.01.2020 respectively.

11.The petitioner is directed to appear before the respondent in person. The respondent is also directed to issue a fresh show cause notice fixing a date and time for appearance of the petitioner. On that particular date and time, the petitioner should appear and he may explain relevancy of the documents which he seeks and thereafter, the respondent may hear the petitioner with respect to the averments in the show cause notice and proceed further. If the petitioner does not properly respond, the respondent is at liberty to cancel any license of any mineral activity whether they are subsisting or not. The respondent may issue a fresh show cause notice on or before 27.03.2020 fixing a date and time for appearance of the petitioner and if the petitioner does not appear and once again communicates seeking postponement of the hearing, the respondent is at liberty to proceed further to cancel the license of whatever mining license has been leased to the petitioner.

12.It is a wonder how these writ petitions were filed before this Court when *suo motu* W.P.No.1592 of 2015 is under active and continuous consideration of a Hon'ble Division Bench at the Principal Seat.

13.With the above directions, these Writ Petitions are dismissed with costs of Rs.10,000/- (Rupees Ten Thousand only) for each writ petition totally Rs.1,20,000/- (Rupees One Lakh and Twenty Thousand only). Connected Miscellaneous Petitions are dismissed.

14.The petitioner is directed to pay a sum of Rs.30,000/- (Rupees Thirty Thousand only) to the Dean, Government General Hospital, Thoothukudi, a sum of Rs.30,000/- (Rupees Thirty Thousand only) to the Dean, Government Hospital, Tirunelveli, a sum of Rs.30,000/- (Rupees Thirty Thousand only) to the Dean, Government Hospital, Sivagangai and a sum of Rs.30,000/- (Rupees Thirty Thousand only) to the Dean, Government Medical Hospital, Madurai, totally Rs.1,20,000/- (Rupees One Lakh and Twenty Thousand only) for filing these writ petitions before this Court, when *suo motu* W.P.No.1592 of 2015 is pending before the Principal Bench and for



delaying the progress of enquiry based on the show cause notices, seeking documents and not explaining the necessity or relevancy of the document in his representation. The costs are to be used by the Deans of the respective Medical Hospitals for treatment of poor patients. It is hoped that atleast few patients would benefit by such amount. The costs should be paid on or before 27.03.2020.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmk

Note : (1)Copy of the order to be marked Registrar (Judicial), Madras High Court for placing the order before the Hon'ble Division Bench, which is dealing with W.P.No.1592 of 2015.

(2) The learned counsel for the petitioner may address a letter to Registrar (Judicial) for reporting compliance. If no such letter is received by 31.03.2020, Registrar (Judicial) may circulate a note for consideration on 01.04.2020 so that further orders for recovery of costs may be passed.

To

The State of Tamil Nadu,
Rep. By its Principal Secretary to Government,
Industries (MMD.2) Department,
Secretariat, Fort.St.George,
Chennai 600 009

Copy to:

- 1.The Registrar (Judicial), High Court, Madras.
- 2.The Registrar (Judicial), Madurai Bench of Madras High Court, Madurai.
- 3.The Dean, Government General Hospital, Tuticorin.
- 4.The Dean, Government Hospital, Tirunelveli.
- 5.The Dean, Government Hospital, Sivagangai.

+1 CC to M/s.SPL GP (SR-12277[F] dated 18/03/2020)

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3185, 3186, 3187, 3188, 3189, 3191 and 3193 of 2020
17.03.2020

sma/08/05/2020/5p/8c